

1 Honorable Marsha J. Pechman

2 UNITED STATES DISTRICT COURT
3 FOR THE WESTERN DISTRICT OF WASHINGTON
4 AT SEATTLE

5 BAILEY ROTH,

6 Plaintiff,

7 v.
8 RAYMOND W. LARSEN and JANE DOE
9 LARSEN, and their marital community; ERIK
10 K. LARSEN and MARY DOE LARSEN, and
11 their marital community; STEIN F. LARSEN
12 and BETTY DOE LARSEN, and their marital
13 community; and PACIFIC WEST
14 MANAGEMENT CORPORATION,

15 Defendants.

16 DEGUSSA CORPORATION, a foreign
17 corporation; BASF CORPORATION, a foreign
18 corporation; and ZYGROVE
19 CORPORATION, a Minnesota corporation,

20 Additional Defendants.

21 BASF CORPORATION, a foreign corporation,
22 and ZYGROVE CORPORATION, a
23 Minnesota corporation,

24 Third-Party Plaintiffs,

25 v.
26 FAIRCHILD CORPORATION, a Delaware
corporation, and RHI HOLDINGS, INC., a
Delaware corporation,

27 Third-Party Defendants.

3 No. 07-0106 MJP

4 ORDER RE: SUPPLEMENTAL
5 DECLARATION OF DOUGLAS
6 WEINMASTER (DKT. NO. 126)

The Court has received and reviewed Defendants BASF Corporation and Zygrove Corporation's Motion to Strike the Supplemental Declaration of Douglas Weinmaster and Exclude Evidence (Dkt. No. 144). Although the motion is not noted until April 25, 2008, and Plaintiff has yet to respond, the Court is taking the unusual step of issuing a pre-emptive order based on the nearness of the trial date and the incontrovertible nature of Mr. Weinmaster's error in filing a motion to strike in a pleading separate from his responsive brief.

IT IS ORDERED that Defendants' motion is GRANTED. The prohibition contained in Local Rule 7(g) could not be clearer: "Requests to strike material contained in or attached to submission of opposing parties shall not be presented in a separate motion to strike, but shall instead be included in the responsive brief and will be considered with the underlying motion." Plaintiff's counsel cannot avoid this restriction by filing the request to strike in a declaration rather than a motion.

IT IS FURTHER ORDERED that Plaintiff's counsel shall have an opportunity to refile his responsive brief and incorporate his request to strike therein. The revised responsive brief shall contain no new legal argument, and must be filed no later than April 23, 2008. If Defendants wish to amend their reply brief to respond to the request to strike, their revised reply must be filed by April 25, 2008.

DONE this 18th day of April, 2008

/s Marsha J. Pechman
THE HONORABLE MARSHA J. PECHMAN
United States District Judge